information can be obtained. The Notice may contain additional material considered necessary by the Responsible Official. Additional Notice may be given in one or more general circulation newspapers in the BPA marketing area or through other effective means of publicity, as necessary or desirable.

The Responsible Official shall act as or appoint a chairperson of the Forum. At the beginning of a Forum, the chairman shall explain the procedures governing the proceedings.

BPA shall offer interested persons the opportunity for oral presentation of views, data, and arguments. Persons wishing to speak should notify the BPA Public Involvement Coordinator or the Area or District Manager of the locality in which the Forum will be held at least 3 days before a Forum to permit preparation of a tentative schedule of participants. The chairperson may establish time limitations for oral presentations to assure that all interested persons who desire to speak shall have an opportunity to do so. The chairperon may require that interested persons with similar views, data, and arguments consolidate their presentations. Forum proceedings shall be transcribed. Transcripts of Public Comment Forums shall be available for review at the Area or District office in the locality where the forum is held. Copies of the transcripts of all Public Comment Forums shall be available for review in the office of the Public Involvement Coordinator.

f. *Additional Opportunity for Comment.* Opportunity for interested persons to participate in Policy formulation through submission of written data, views, or arguments shall be provided. Written comments on the Proposed Policy will be received from the date of publication of the Notice of Proposed Policy or combined Notice for the period stated in the Notice.

g. *Evaluation of the Official Record.* Following the comment period, the Responsible Official shall prepare an Evaluation of the Offical Record, which shall be submitted to the Administrator.

4. *Promulgation of the Policy.* After the submission of the Evaluation of the Official Record, the Administrator shall decide whether to adopt, modify and adopt, or reject the Proposed Policy.

The decision shall be documented in a Record of Decision which shall be signed by the Administrator and which will be a part of the Official Record.

BPA shall publish, in the **Federal Register** or elsewhere if so decided by the Administrator, a Notice of a final Policy. The Policy shall become effective on the date of publication of the Notice unless otherwise specified.

5. *Public Meeting Procedures.* For policies other than those identified by BPA as major regional power policies, the Administrator may make use of a **Federal Register** Notice or other appropriate notice for announcement of a public meeting to obtain the views of interested persons. The Administrator may set the procedures for such meetings ad the procedures may be made a part of the Notice.

6. *Emergency Policy Implementation.* The requirements of publication of Notice, comment period, opportunity for presentation of views, and promulgation of a Policy, as established by this procedure may be waived where those policies are (a) adopted on an interim basis, and (b) after a finding by the Administrator that strict compliance is likely to cause serious harm or injury to the public health, safety, or welfare, or for good cause shown, that such procedure is impractical, unnecessary, or contrary to the public interest. Such finding will be set out in detail in the interim policy. In the event that the procedure is waived, the requirements shall be satisfied within a reasonable period of time subsequent to the promulgation of the interim Policy by utilization of the procedure then in effect.

7. *Relationship to National Environmental Policy Act (NEPA) Requirements.* In those instances in which a Proposed Policy under consideration requires an environmental impact statement, the public participation procedure will be coordinated to the fullest extent possible with those required under NEPA. Joint Notices will be issued and meetings combined when possible.

Dated: May 6, 1981.

Earl E. Gjelde,

Acting Administrator.

[FR Doc. 81-14311 Filed 5-11-81; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Marion Corp.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of action taken on consent order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces notice of a final Consent Order.

EFFECTIVE DATE: May 6, 1981.

FOR FURTHER INFORMATION CONTACT: Stanley S. Mills, Program Manager for Entitlements, Department of Energy, Office of Enforcement, Economic Regulatory Administration, 2000 M Street, NW., Room 5114, Washington, D.C. 20461.

SUPPLEMENTARY INFORMATION: On October 28, 1980, 45 FR 71644 (1980), the Office of Enforcement of the ERA published notification in the **Federal Register** that it had modified a proposed Consent Order with Marion Corporation and that the modified proposed Consent Order would not become effective sooner than thirty days after publication. Interested persons were invited to submit comments concerning the terms, conditions or procedural aspects of the Consent Order.

Five comments were received. All commentors recommended that the refund should be effectuated through adjustment to the Entitlements Program. One of the commentors recommended that special refund procedures be implemented as an alternative remedy. Neither of these remedies is precluded by the modified Consent Order and DOE has thus determined to finalize the modified Consent Order and make it effective as of May 6, 1981.

Issued in Washington, D.C., on the 6th day of May 1981.

James J. Fenton,

Acting Director of Program Operations.

[FR Doc. 81-14287 Filed 5-11-81; 8:45 am]

BILLING CODE 6450-01-M

Office of the Secretary

Proposed Subsequent Arrangement; European Atomic Energy Community (EURATOM)

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Switzerland Concerning Civil Uses of Atomic Energy, as amended, and the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

This subsequent arrangement would give approval, which must be obtained under the above mentioned agreements, for the following transfer of special nuclear materials of United States origin, or of special nuclear materials produced through the use of materials of United States origin, as follows: From

Switzerland to France (the COGEMA facility) for the purpose of reprocessing 95 irradiated fuel assemblies containing 29,291 kilograms of uranium, enriched to 1.05% U–235, and 259 kilograms of plutonium from the Beznau Power Plants No. I and No. II, owned by the Nordostschweizerische Kraftwerke. This subsequent arrangement is designated as RTD/EU(SD)–34.

The Department of Energy has received letters of assurance from the Government of Switzerland that the recovered uranium and plutonium will be stored at the reprocessing facility and will not be transferred from that facility, nor put to any use, without the prior consent of the United States Government.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice and after fifteen days of continuous session of the Congress, beginning the day after the date on which the reports required by Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) are submitted to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate. The two time periods referred to above shall run concurrently.

For the Department of Energy.

Dated: May 7, 1981.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 81-14264 Filed 5-11-81; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangement; Government of Switzerland

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Switzerland Concerning Civil Uses of Atomic Energy, as amended, and the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

This subsequent arrangement would give approval, which must be obtained under the above mentioned agreements, for the following transfer of special nuclear materials of United States origin, or of special nuclear materials produced through the use of materials of United States origin, as follows: From Switzerland to France (the COGEMA facility) for the purpose of reprocessing 71 irradiated fuel assemblies containing 12,635 kilograms of uranium, enriched to 0.99% U–235, and 100 kilograms of plutonium from the Muhleberg Power Plant, owned by the Bernische Kraftwerke AG. This subsequent arrangement is designated as RTD/EU(SD)–33.

The Department of Energy has received letters of assurance from the Government of Switzerland that the recovered uranium and plutonium will be stored at the reprocessing facility and will not be transferred from that facility, nor put to any use, without the prior consent of the United States Government.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice and after fifteen days of continuous session of the Congress, beginning the day after the date on which the reports required by Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) are submitted to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate. The two time periods referred to above shall run concurrently.

For the Department of Energy.

Dated: May 7, 1981.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 81-14265 Filed 5-11-81; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[EN-FRL 1814-7]

California State Motor Vehicle Pollution Control Standards; Waiver of Federal Preemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Waiver of Federal preemption.

SUMMARY: This decision grants California a waiver of Federal preemption pursuant to section 209(b) of the Clean Air Act to enforce amendments to its 1982 and subsequent model year exhaust emission standards and test procedures for heavy-duty engines limiting adjustability of the idle air/fuel mixture mechanism, and to its 1981 and later model year evaporative emission standards and test procedures for gasoline-powered motor vehicles eliminating the 1.0 gram per test background allowance for non-fuel hydrocarbon emissions.

ADDRESS: Information relevant to this decision is available for public inspection during normal working hours (8:00 a.m. to 4:00 p.m.) at: U.S. Environmental Protection Agency, Central Docket Section, Gallery I, 401 M St., SW., Washington, D.C. 20460 (Docket EN–80–22).[1]

FOR FURTHER INFORMATION CONTACT: Michael Chernekoff, Attorney/Advisor, Waivers Section, Manufacturers Operations Division (EN–340), U.S. Environmental Protection Agency, Washington, D.C. 20460 (202) 472–9421.

SUPPLEMENTARY INFORMATION:

I. Introduction

By this decision, issued under section 209(b) of the Clean Air Act, as amended (hereinafter "Act"),[2] I am granting the State of California a waiver of Federal preemption to enforce the following:

(1) Amendments to exhaust emission standards and test procedures for 1982 and later model year heavy-duty engines and vehicles, as set forth in section 1956.7 of Title 13 of the California Administrative Code and in "California Exhaust Emission Standards and Test Procedures for 1981 and Subsequent Model Heavy-Duty Engines and Vehicles" adopted October 5, 1976, as amended April 23, 1980.[3]

(2) Amendments to evaporative emission regulations as set forth in section 1976(c) of Title 13, California Administrative Code and in "California Evaporative Emission Standards and Test Procedures for 1978 and Subsequent Model Year Gasoline-Powered Motor Vehicles" adopted April 16, 1975, as amended April 23, 1980.[4]

Under section 209(b) of the Act when California requests a waiver of Federal preemption as to accompanying enforcement procedures which relate to

[1] The Docket number was previously listed erroneously as EN–80–16 in the hearing notice EPA published at 45 FR 57171 (August 27, 1980).

[2] 42 U.S.C. 7543(b)(1977), as amended.

[3] These amended regulations are applicable to 1982 and subsequent model year heavy-duty gasoline-powered engines and vehicles.

[4] These amended regulations apply to all 1981 and subsequent model year gasoline-powered vehicles, except motorcycles.

standards for which a waiver has already been granted and is still in effect, I must grant the requested waiver unless I find that (1) the procedures may cause the California standards, in the aggregate, to be less protective of public health and welfare than the applicable Federal standards or (2) the accompanying enforcement procedures are not consistent with section 202(a) of the Act.[5] With regard to the first finding, if the public record of the proceedings before me contains plausible evidence that the California enforcement procedures may cause the California standards, in the aggregate, to be less protective than the corresponding Federal standards, then I must deny the waiver if: (1) California did not make a positive determination as to the relative protectiveness of the standards when coupled with the new enforcement procedures or (2) California did make such a determination, and the record contains clear and compelling evidence that its determination is arbitrary and capricious.[6] With regard to the second finding, State enforcement procedures are deemed not to be consistent with section 202(a) if there is inadequate lead time to permit the development of the technology necessary to implement the new procedures, giving appropriate consideration to the cost of compliance within the time frame, or if the Federal and California test procedures impose inconsistent certification requirements.[7]

On the basis of the record before me, I have concluded that I cannot make the findings required for the denial of the waivers under section 209(b) for these California regulations. Accordingly, I am granting the requested waivers of Federal preemption.

II. Background

A. Amendments To Exhaust Emission Standards and Test Procedures for 1982 and Subsequent Model Heavy-Duty Engines

On April 23, 1980, the California Air Resources Board (CARB) adopted regulations limiting idle air/fuel mixture adjustability for 1982 and subsequent model year heavy-duty gasoline-powered engines. The regulations provide that the mixture adjustment mechanism must not be visible, even with the air cleaner removed, and must require special tools and/or procedures to make adjustments. Alternatively, CARB may require that the certification test of an engine family or vehicle be conducted with the idle air/fuel mixture adjusted to any setting which CARB finds corresponds to settings likely to be encountered in actual use. The manufacturer must choose between these methods of compliance at the time of preliminary application for certification.

These regulations are nearly identical to CARB's parameter adjustment regulations applicable to 1980 and subsequent model year passenger cars and 1981 and subsequent model year light-duty trucks and medium-duty vehicles for which EPA granted a waiver of Federal preemption on July 10, 1978.[8] CARB anticipated that these regulations would present little technical difficulty to manufacturers of heavy-duty gasoline engines because of the adaptability of the design for tamper-resistant carburetors currently used in passenger cars, light-duty trucks, and medium-duty vehicles to the carburetors that manufacturers will use in heavy-duty trucks.[9] For those heavy-duty engines which use carburetors substantially different in design from those used in light-/or medium-duty vehicles, the regulations for which California has requested the present waiver provide that a one-year exemption may be granted by the Executive Officer of CARB, on a case-by-case basis, for the 1982 model year only. The exemption may be granted only if the Executive Officer finds the manufacturer has not had sufficient lead time to comply with the regulation by model year 1982.

B. Amendments to Evaporative Emission Standards and Test Procedures for 1981 and Subsequent Model Year Gasoline-Powered Motor Vehicles

On April 23, 1980, CARB amended its evaporative emission enforcement procedures as they apply to 1981 and subsequent model year gasoline-powered vehicles. The amendments eliminate the 1.0 gram per test background allowance which CARB was required to subtract from individual test results in determining compliance with its evaporative emission standard. CARB initially intended this procedure to account for non-fuel hydrocarbon (HC) emission sources such as paints, plastics, and rubber components.[10] The 2.0 gram per test evaporative emission standard remains in place for all motor vehicle classes except motorcycles.

On June 13, 1980, California requested a waiver of Federal preemption to enforce these two sets of amended regulations. EPA held a public hearing in San Francisco on September 16, 1980, pursuant to a notice published by EPA in the **Federal Register**.[11]

III. Discussion

The following discussion will evaluate separately each of the two sets of regulations for which California is seeking a waiver of Federal preemption pursuant to section 209(b) of the Act.

A. Amendments to Exhaust Emission Standards and Test Procedures for 1982 and Subsequent Model Heavy-Duty Engines

1. *Public Health and Welfare.* California's regulations limiting idle air/fuel mixture adjustability constitute "accompanying enforcement procedures" under section 209(b)(1) of the Act.[12] The criteria for my review of the public health and welfare issue as it pertains to accompanying enforcement procedures have been set forth in the introduction.

All exhaust emission standards to be enforced by the new test procedures under consideration here have received waivers of Federal preemption which are still in effect.[13] The public record does not contain evidence that this adjustment limitation regulation would cause the California exhaust emission standards, in the aggregate, to be less protective of public health and welfare than the applicable Federal standards. If anything, these regulations most likely would cause the California standards to be more protective because requiring manufacturers to restrict adjustability of the mixture mechanism should reduce incidents of misadjustment, thereby reducing emissions.

This regulation is the equivalent of Federal regulations covering the same subject matter but which regulations are not scheduled to take effect until the 1984 model year.[14] The California regulation which is the subject of this waiver decision will affect 1982 and subsequent model year heavy-duty engines. Thus, manufacturers would have to comply with requirements in California two years before substantially the same requirements would be enforced nationally. Further, similar requirements are already in

[5] *See*, e.g., 43 FR 29615 (July 10, 1978).
[6] 43 FR 9344, 9345, 9346 (March 7, 1977).
[7] 43 FR 29615 (July 10, 1978).
[8] 42 FR 29615 (July 10, 1978). The only difference between the two regulations is the class of vehicles covered.
[9] Transcript of Waiver Hearing on Amendments to California Evaporative Emissions Standards and Test Procedures and California Exhaust Emission Standards and Test Procedures for Heavy-Duty Engines, September 16, 1980, pp. 22–23, 25–26 (hereinafter referred to as "Tr.").
[10] Tr. at p. 9.
[11] 45 FR 57171 (August 27, 1980).
[12] *See* 42 FR 3192, 3194 (January 17, 1977). *See also* 43 FR 29615 (July 10, 1978).
[13] 42 FR 31637 (June 22, 1977).
[14] Tr. at p. 22; 45 FR 4136 (January 21, 1980).

effect, and I have previously granted a waiver under section 209(b) of the Act, for the enforcement of those requirements in conjunction with emission standards for light- and medium-duty vehicles.[15] Therefore, I can find no basis for denying the waiver for these amended enforcement procedures on this issue.

2. *Consistency.* Once I have determined that enforcement procedures covered by a California waiver request do not cause California's standards to be, in the aggregate, less protective than Federal standards, I must grant the waiver request covering the enforcement procedures unless, under section 209(b)(1)(C), I find that the California enforcement procedures in question are not consistent with section 202(a) of the Act.[16]

a. *Lead Time and Technology.* CARB testified that the amended regulation is clearly technologically feasible; passenger cars currently are equipped with the technology needed to comply, and 1981 light- and medium-duty vehicles will employ that technology as well.[17] CARB maintains that manufacturers will only have to make minor carburetor casting modifications in order to comply and that manufacturers will have approximately 20 months of lead time from the time it adopted the amendment to transfer existing technology to heavy-duty engines.[18] This time period, according to CARB, is adequate lead time to comply.[19] To further ensure that there is adequate lead time to comply, the CARB regulation provides for one-year only exemptions, to be decided on a case-by-case basis, for those heavy-duty engines that currently use carburetors which are substantially different in design from carburetors currently in use on light- or medium-duty vehicles and which the manufacturer demonstrates cannot be made to comply within the available lead time.[20]

Comments submitted to EPA by General Motors Corporation (GM)[21] and Ford Motor Company (Ford)[22] state that compliance within the available lead time is possible. In addition, CARB indicated at the September 16, 1980 hearing which EPA held on this matter that Ford currently does not require any adjustment of the idle mixture on carburetors for their light-duty engines; adjustments made on the carburetor are made on the flowbench prior to being installed in the vehicle.[23] CARB anticipates that this same approach would be carried over on heavy-duty vehicles. This, according to CARB, would place Ford in automatic compliance with the regulation.[24] GM testified at the CARB hearing held on April 23, 1980, that it expects to have some compliance problems only with carburetors other than the Rochester Products Division quadrajet. However, GM installs the quadrajet model in 92 percent of all GM heavy-duty vehicles sold in California, leading CARB to contend that GM is presently in almost complete compliance.[25] GM's subsequent comments[26] to EPA suggest that it does not foresee any substantial compliance problem with its four other carburetor models which comprise the remaining 8 percent of California sales, especially if the one-year exemption is available to engines using these models. Comments submitted to CARB by International Harvester (IH) indicate the IH also does not foresee substantial technological problems in order to comply with the regulation, especially if it can take advantage of the one-year exemption.[27]

Because the record contains no significant evidence tending to controvert CARB's showing of technological feasibility for this enforcement procedure in question, I cannot conclude that manufacturers cannot develop and apply the requisite technology within available lead time in order to achieve compliance with the amendment limiting the adjustability of the idle air/fuel mixture for heavy-duty engines.

b. *Cost of Compliance.* With regard to cost of compliance, CARB testified that the total amortized cost of compliance would amount to only $7.00 additional cost per carburetor.[28] The only indication by manufacturers that cost would be a problem in achieving compliance came from IH in its testimony before CARB. In that testimony, IH stated that new carburetors and the associated new certication program that would ensue for the 1982 and 1983 model years would be difficult to justify for IH, since all new heavy-duty carburetors would again be required for 1984 and later model years.[29] IH has not, however, submitted any information as to specific costs and modifications required. Thus, it has not met its burden of persuasion to establish that the costs of compliance will create a significant problem. I, therefore, cannot find that the cost of compliance with this amendment is so excessive as to warrant a denial of the waiver on this ground.

c. *Consistency of Certification Procedures.* As previously noted, EPA promulgated final regulations concerning the adjustability of certain parameters including idle mixture adjustability, during certification testing for 1984 and later model heavy-duty engines on January 21, 1980.[30] At this time there can be no inconsistency between Federal and California certification requirements for 1981 through 1983 model years as the Federal requirements are not yet in effect. Also, no one identified for the record any inconsistencies between these requirements, even for model years beyond 1983. Therefore, I cannot deny the waiver on this basis. However, in the event that an interested party finds an inconsistency to exist when the Federal requirements become enforceable, that party may file a petition with me, setting forth the grounds on which it requests a reconsideration of the waiver granted herein.

No other issues were raised in opposition to California's waiver request.

B. Amendments to the Evaporative Emission Standards and Test Procedures for 1981 and Subsequent Model Year Gasoline-Powered Motor Vehicles

1. *Public Health and Welfare.* California's regulations eliminating the 1.0 gram per test background allowance constitute "accompanying enforcement procedures" under section 209(b)(1) of the Act.[31] The criteria for my review of

[15] 43 FR 29615 (July 10, 1978).

[16] *See* Introduction, *supra*, for discussion of section 202(a).

[17] Tr. at p. 22.

[18] *Id.* The amendment was adopted by CARB on April 13, 1980, and applies to 1982 and later model year vehicles.

[19] *Id.*

[20] Tr. at p. 23.

[21] Statement of General Motors at the Environmental Protection Agency Waiver Hearing on Amendments to the California Evaporative Emission Standard and Test Procedures and the 1982 and Later Model Year Heavy-Duty Engine Test Procedures, San Francisco, California, September 16, 1980.

[22] Letter from H. O. Petrauskas, Ford Motor Company, to Jerry Schwartz, EPA, September 10, 1980.

[23] Tr. at pp. 26–27.

[24] Tr. at p. 26.

[25] Tr. at p. 30. See also Statement of GM referred to at note 21 *supra*.

[26] *Supra* note 21 and accompanying text.

[27] Statement of International Harvester in Response to CARB Proposed Amendments to Title 13 California Administrative Code Regarding Parameter Adjustment of Idle/Fuel Mixtures on Heavy-Duty Engines, April 14, 1980.

[28] Tr. at p. 30.

[29] *Id.*

[30] 45 FR 4136 (January 21, 1980).

[31] I have characterized this regulation for which California is seeking a waiver as an enforcement

Continued

the public health and welfare issue as it pertains to accompanying enforcement procedures has been set forth in the introduction of this decision.

California's evaporative emission standards to be enforced by the amended procedures which are the subject of this waiver request have received waivers of Federal preemption which are currently in effect.[32] CARB has made a determination that this amendment will result in its evaporative emission standard for gasoline-powered engines being at least as protective, in the aggregate, of public health as comparable Federal regulations.[33] CARB based this determination on the fact that its evaporative emission standard, without the previously allowed background allowance, is still numerically identical to the Federal standard for the motor vehicle and engine classes at issue.[34] However, the CARB regulations provide for a one-year extension in eliminating the background allowance at issue for which the comparable Federal regulations do not similarly provide. CARB will grant this extension, on a case-by-case basis, only if the Executive Officer finds that a manufacturer has had insufficient lead time to comply with this amendment. CARB does not believe that the allowance for a one-year delay makes its evaporative emission standard less stringent than the Federal standard because CARB believes that its method of testing the durability of evaporative control systems is more stringent than the Federal method, and thus CARB compensates for any one-year delays which it may allow.[35]

The record fails to show, by clear and compelling evidence, that California's determination that its amendment to its enforcement procedures does not reduce the protectiveness to the public health and welfare of the standards was arbitrary and capricious. Therefore, I cannot find a basis for denying the waiver on this issue.

2. *Consistency.* The determination I must make in order to deny a waiver of Federal preemption, on grounds of inconsistency under section 209(b)(1)(c), for an enforcement procedure such as the regulation before me has previously been described in the discussion herein of the amendment to the exhaust emission standards and test procedures for heavy-duty engines.[36]

a. *Lead Time and Technology.* CARB contends that the technology to comply with this regulation is available and feasible and anticipates that no redesign or new hardware will be required.[37] CARB bases this contention on the fact that 96 percent of the 1980 California certification fleet did not need the background allowance in order to meet the evaporative emission standard.[38] CARB further notes, that in order to ensure that adequate lead time is available to all manufacturers, the regulation includes a provision for a one-year extension of the imposition of the amended regulation, on a case-by-case basis, if a manufacturer can demonstrate that it has not had sufficient lead time to comply by the 1981 model year.[39] There were no contrary claims asserting infeasibility by any other party.

Based on this record, I cannot conclude that manufacturers cannot develop and apply the requisite technology within the available lead time in order to achieve compliance with the standards and test procedures which have been amended in order to eliminate the use of the 1.0 gram per test evaporative emission background allowance.

b. *Cost of Compliance.* CARB testified that it does not anticipate manufacturers will need to redesign or install new hardware in order to achieve compliance with the standard even without the background allowance.[40] Therefore, it does not anticipate any additional costs. CARB, however, did state that some heavy-duty engines may require an inexpensive piece of hardware which it claims would have no real impact on cost.[41] There were no contrary claims by any other party that costs would be so excessive as to warrant a denial of the waiver on these grounds. Therefore, based on the record before me, I cannot deny the waiver on this ground.

No other issues were raised in opposition to this request.

IV. Finding and Decision

Having given due consideration to the public hearing of September 16, 1980, and all other material included in the record for these waiver proceedings, I find that I cannot make the determinations required under section 209(b) of the Act for a denial of the waiver California has requested, and therefore I am waiving application of section 209(a) of the Act with respect to the following enforcement procedures adopted by California:

(1) Amendments to exhaust emission standards and test procedures for 1982 and later model year heavy-duty engines and vehicles, as set forth in section 1956.7 of Title 13 of the California Administrative Code and in "California Exhaust Emission Standards and Test Procedures for 1981 and Subsequent Model Heavy-Duty Engines and Vehicles" adopted October 5, 1976, as amended April 23, 1980;

(2) Amendments to evaporative emission regulations as set forth in section 1976(c) of Title 13, California Administrative Code and in "California Evaporative Emission Standards and Test Procedures for 1978 and Subsequent Model Year Gasoline-Powered Motor Vehicles" adopted April 16, 1975, as amended April 23, 1980.

Section 3(b) of Executive Order 12291, 46 FR 13193 (February 19, 1981) requires EPA to initially determine whether a rule that it intends to propose or issue is a major rule and to prepare Regulatory Impact Analyses for all major rules. Section 1(b) of the Order defines "major rule" as any regulation (as defined in the Executive Order) that is likely to result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-

procedure as opposed to a standard. This regulation does not attempt to establish a new maximum numerical limitation for evaporative emissions—the California standard is, and remains, 2.0 grams per test. Rather, this regulation amends the enforcement procedures used by California to determine whether or not the manufacturer can be said to be in compliance with the 2.0 gram per test standard.

[32] 43 FR 1533 (January 10, 1978).

[33] State of California Air Resources Board Resolution 80-8, April 23, 1980.

[34] Tr. at pp. 10-11.

[35] Tr. at p. 11. CARB testified that Federal regulations allow usage of a system deterioration factor derived either from bench testing or durability vehicle testing, while California requires that the deterioration factor be determined by combining the results of both bench testing and durability vehicle testing. Tr. at p. 11.

[36] *See also*, Introduction, *supra*.

[37] Tr. at pp. 9-10.

[38] Tr. at p. 9. These findings were based on a sampling of 161 vehicles—111 passenger cars, 24 light-duty trucks, and 26 medium-duty vehicles. Of these, only seven vehicles failed—two passenger cars, one light-duty truck, and four medium-duty vehicles. CARB contends that of the seven vehicles that failed, four failed for reasons other than background emissions, and CARB concludes that it is not certain that these emissions, were a factor in the failure of the other vehicles. Tr. at pp. 16-18. See also CARB *Staff Report* on Public Hearing to Consider Changes to Evaporative Emission Regulations for 1981 and Subsequent Model Year Vehicles, March 7, 1980.

[39] Tr. at p. 10.

[40] Tr. at pp. 9-10.

[41] Tr. at pp. 14-15. The piece of hardware CARB referred to is a solenoid valve. Tr. at p. 14.

based enterprises in domestic or export markets.

EPA has determined that these waiver determinations are not major rules. As determined in the discussions on costs herein, this action will result in only minor, if any, increase in costs or prices for consumers, individual industries, governmental agencies or geographic regions, will not have significant adverse effects on competition (domestic and foreign), employment, investment, productivity, or innovation, and will not have a net annual effect on the economy of $100 million or more.

Accordingly, a Regulatory Impact Analysis is not being prepared for these waiver determinations.

My decision will affect not only persons in California but also the manufacturers located outside the State who must comply with California's standards in order to produce motor vehicles for sale in California. For this reason I hereby determine and find that this decision is of nationwide scope and effect.

Pursuant to the provisions of 5 U.S.C. 605(b) I hereby certify that this action under section 209(b) of the Clean Air Act will not have a significant impact on a substantial number of small entities. The attached waiver decision only constitutes an approval under section 209(b) of the Clean Air Act of State action. It imposes no new requirements. Moreover, due to the nature of the Federal-State relationship, Federal inquiry into the economic reasonableness of the State's action would serve no practical purpose and could well be improper.

Dated: May 7, 1981.

Walter C. Barber, Jr.,

Acting Administrator.

[FR Doc. 81-14200 Filed 5-11-81; 8:45 am]

BILLING CODE 6560-33-M

[PF-196A; PH-FRL 1824-7]

E. I. du Pont de Nemours and Co.; Filing of Pesticide Petition; Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The notice amends a notice of filing that published in the Federal Register of August 19, 1980 (45 FR 55268) proposing tolerances for the combined residues of the herbicide hexazinone (3-cyclohexyl-6-(dimethylamino)-methyl-1,3,5-triazine-2,4 (1*H*,3*H*)-dione and its metabolites (calculated as hexazinone).

FOR FURTHER INFORMATION CONTACT: Richard F. Mountfort, Product Manager (PM) 23, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 412D, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-7070).

SUPPLEMENTARY INFORMATION: EPA issued a notice that published in the Federal Register of August 19, 1981 (45 FR 55268) announcing that E. I. du Pont de Nemours and Co., Inc., Wilmington, DE 19898, had submitted a petition (PP OF2382) proposing that 40 CFR Part 180 be amended by establishing tolerances for the combined residues of the herbicide hexazinone (3-cyclohexyl-6-(dimethylamino)-methyl-1,3,5-triazine-2,4 (1*H*, 3*H*)-dione and its metabolites (calculated as hexazinone) in or on certain raw agricultural commodities.

E. I. du Pont de Nemours and Co., Inc., has submitted an amendment to the petition proposing the following:

Commodities	Previously proposed tolerances	Proposed tolerances
Alfalfa, forage	5	2
Alfalfa, hay	5	8
Meat, fat, and meat byproducts (except liver) of cattle, goats, horses, hogs, and sheep	0.05	0.1
Milk	0.05	0.1
Liver of cattle, goats, horses, hogs, and sheep	0.01	0.1
Eggs	—	0.1

The proposed analytical method for determining residues is by nitrogen selective gas chromatography.

(Sec. 408(d)(1), 68 Stat. 512, (7 U.S.C. 135))

Dated: May 4, 1981.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 81-14199 Filed 5-11-81; 8:45 am]

BILLING CODE 6560-32-M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10218; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before June 1, 1981. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No.: 8240-17.

Filing Party: Wade S. Hooker, Esquire Burlingham, Underwood & Lord, One Battery Park Plaza, New York, New York 10004.

Summary: Agreement No. 8240-17 modifies the basic agreement of the Atlantic and Gulf-Singapore, Malaya and Thailand Conference by empowering the conference to authorize its agents to collect freight or other charges at destination ports. Present collection authority is limited to demurrage charges.

Agreement No.: 10270-2.

Filing Party: Mr. Howard A. Levy, Attorney for Agreement No. 10270, 17 Battery Place, Suite 727, New York, New York 10004.

Summary: Agreement No. 10270-2, among the members of the Gulf European Freight Association Agreement, would extend the term of the basic agreement, as amended, for an indefinite period beyond its present termination date of September 8, 1981.

Agreement No.: 10418.

Filing Party: Mr. R. J. Finnan, Chief Tariff Publishing Officer, Lykes Bros. Steamship Co., Inc., 300 Poydras Street, New Orleans, Louisiana 70130.

Summary: Agreement No. 10418, between Lykes Bros. Steamship Co., Inc. (Lykes) and Caldwell Shipping Company (Caldwell), provides that Lykes will appoint Caldwell as its agent in respect to services provided by and controlled by Lykes for intermodal traffic destined to or originating from Savannah, Jacksonville, Port Everglades and Miami. Compensation and fees will be as agreed upon from time to time by the parties.

By Order of the Federal Maritime Commission.

Dated: May 7, 1981.

Joseph C. Polking,

Acting Secretary.

[FR Doc. 81-14214 Filed 5-11-81; 8:45 am]

BILLING CODE 6730-01-M